

ग्रसाधार ग

EXTRAORDINARY

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PART II-Section 1

प्राधिकार से पकाशित

PUBLISHED BY AUTHORITY

सं० 45] No 45] नई दिल्ली, रविवार, श्र≉तुबर 17, 1971/शादिवन 25, 1893

NEW DELHI, SUNDAY OCTOBER 17, 1971 ASVINA 25, 1893

इस भाग में भिन्न पक्ष्ठ संख्या वी जाती है जिसले कि यह ग्रलग संकलन के रूप में रखा जा सके। Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE (Legislative Department)

New Delhi, the 17th October, 1971/Asvina 25, 1893 (Saka)

THE ASIAN REFRACTORIES LIMITED (ACQUISITION OF UNDERTAKING) ORDINANCE, 1971

No. 13 of 1971

Promulgated by the President in the Twenty-second Year of the Republic of India.

An Ordinance to provide for the acquisition of the undertaking of the Asian Refractories Limited for the purpose of augmenting supplies of refractories to meet the essential requirements of the iron and steel industry.

Whereas the Asian Refractories Limited is in liquidation and has stopped its production;

AND WHEREAS the total production of refractories in India is inadequate and insufficient to meet the essential requirements of the iron and steel industry;

AND WHEREAS the supplies of refractories can be augmented by speedily bringing the Asian Refractories Limited into operation and expanding its capacity thereafter;

And whereas Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

Now, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:—

Short title and com-

- 1. (1) This Ordinance may be called the Asian Refractories Limited mencement (Acquisition of Undertaking) Ordinance, 1971.
 - (2) It shall come into force at once.

Definitions.

- 2. In this Ordinance, unless the context otherwise requires,—
- (a) "appointed day" means the day on which this Ordinance comes into force;
- (b) "company" means the Asian Refractories Limited, being a company as defined in the Companies Act, 1956, having its registered 1 of 1956. office in the State of West Bengal;

(c) words and expressions used herein and not defined but defined in the Companies Act, 1956, have the meanings respectively 1 of 1956. assigned to them in that Act.

Undertaking of the company to vest in the Central Government.

3. On and from the appointed day, the undertaking of the company shall, by virtue of this Ordinance, be transferred to, and shall yest in. the Central Government,

General effect of vesting.

- 4. (1) The undertaking of the company shall be deemed to include all assets, rights, powers, authorities and privileges and all property, movable and immovable, cash balances, reserve funds, investments and all other rights and interests in, or arising out of, such property as were immediately before the appointed day in the ownership, power or control of the company, whether within or outside India, and all books of accounts, registers and all other documents of whatever nature relating thereto and shall also be deemed to include all borrowings, liabilities and obligations of whatever kind then subsisting of the company in relation to the undertaking.
- (2) All property included as aforesaid in the undertaking which has vested in the Central Government under section 3 shall, by force of such vesting, be freed and discharged from any trusts, obligations, mortgages, charges, liens and other encumbrances affecting it, and any attachment, injunction or any decree or order of any court restricting the use of such property in any manner shall be deemed to have been withdrawn.
- (3) Subject to the other provisions of this Ordinance, all contracts, deeds, bonds, agreements, powers of attorney, grants of legal representation and other instruments of whatever nature subsisting or having effect immediately before the appointed day, and affecting the company shall, in so far as they relate to the undertaking of the company, cease to have effect or be enforceable against the company or any person who was a surety or had guaranteed the performance thereof and shall be of as full force and effect against or in favour of the Central Government and enforceable as fully and effectively as if instead of the company the Central Government had been named therein or had been a party thereto.
- (4) If, on the appointed day, any suit, appeal or other proceeding of whatever nature in relation to any business of the undertaking of the company is pending by or against the company, the same shall not abate,

be discontinued or be, in any way, prejudicially affected by reason of the transfer of the undertaking of the company or of anything contained in this Ordinance but the sait, appeal or other proceeding may be continued, prosecuted and enforced by or against the company.

5. (1) Notwithstanding any decree, judgment or order of any court Duty to or anything contained in any other law for the time being in force, the deliver Official Liquidator of the company or any other person, in whose posses- of the sion or custody or under whose control the undertaking of the company or any part thereof may be, shall deliver possession of the undertaking documents of the company or such part thereof, as the case may be, to the Central relating thereto. Government forthwith.

undertak-

- (2) The Official Liquidator or any other person who has, on the appointed day, in his possession or under his control any books, documents or other papers relating to the company, and which belongs to the company, shall be liable to account for the said books, documents or other papers to the Central Government and shall deliver them up to the Central Government or to such person as the Central Government may specify in this behalf.
- (3) The Central Government may take all necessary steps for securing possession of the undertaking which has vested in it under section 3.
- 6. The company shall, within such period as the Central Government Duty to may allow in this behalf, furnish to that Government a complete furnish particulars, inventory of all the properties and assets of the company, as on the appointed day, pertaining to the undertaking which has vested in the Central Government under section 3.

7. (1) The Central Government shall deposit, in Court, in cash, to Payment the credit of the company a sum of rupees eighty-one lakhs as compensa-pensation. tion in respect of the transfer, under section 3, to the Central Government of the undertaking of the company.

- (2) Out of the total amount of compensation referred to in sub-section $(1), \rightarrow$
 - (a) a sum of rupees eight lakhs shall be deposited by the Central Government, within one month from the appointed day, to the credit of the company;
 - (b) the balance of the amount of compensation shall be deposited in Court by the Central Government in ten equal annual instalments, the first of which shall become due on the date on which a period of one year expires from the appointed day and the subsequent instalments shall become due accordingly; and
 - (c) each instalment of the compensation, referred to in clause (b), shall carry interest at the rate of seven per cent. per annum from the commencement of this Ordinance.
- 8. (1) Where it appears to the Central Government that the making Right of of any agreement under which the company has or will have or may have Governliabilities in relation to the undertaking which has vested in the Central disclaim Government under section 3, was not reasonably necessary for the pur-certain poses of the undertaking or has not been entered in good faith, that agreements. Government may, within two years from the commencement of this

Ordinance, apply to the Court for relief from the agreement and the Court, if satisfied after making such inquiry as it may think fit that the agreement was not reasonably necessary for the purposes of the undertaking, which has vested in the Central Government under section 3, or has not been entered into in good faith, may make an order cancelling or varying the agreement on such terms as it may think fit to impose and the agreement shall thereupon have effect accordingly.

(2) All parties to the agreement which is sought to be cancelled or varied under this section shall be made parties to the proceeding.

Management and administration of the undertaking. 9. The undertaking, which has vested in the Central Government under section 3, shall be managed on behalf of the Central Government by such person or body of persons as may be nominated by the Central Government in this behalf, and such person or body of persons shall carry on the management in accordance with such regulations as may be made by the Central Government.

Penalties.

10. (1) Any person who-

- (a) having in his possession, custody or control of any property forming part of the undertaking of the company, wrongfully withholds such property from the Central Government; or
- (b) wrongfully obtains possession of any property forming part of the undertaking of the company which has vested in the Central Government under this Ordinance; or
- (c) wilfully withholds or fails to furnish to the Central Government or any person specified by that Government as required by subsection (2) of section 5 any document which may be in his possession, custody or control; or
- (d) wilfully fails to furnish an inventory as required under section 6; or
- (e) when required to furnish such inventory, furnishes any particulars therein which are false and which he either knows or believes to be false or does not believe to be true,

shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both:

Provided that the court trying any offence under clause (a) or clause (b) or clause (c) of this sub-section may, at the time of convicting the accused person, order him to deliver up or refund within a time to be fixed by the Court any property wrongfully withheld or wrongfully obtained or any document wilfully withheld or not furnished.

Provided further that nothing contained in this section or any other provision of this Ordinance shall render any person liable to be convicted of an offence in respect of anything done or omitted to be done by him before the appointed day.

(2) No court shall take cognizance of an offence punishable under this section except with the previous sanction of the Central Government or of an officer authorised by that Government in this behalf.

1L. No suit, prosecution or other legal proceeding shall lie against the Protection Central Government or an officer or other employee serving in connection of action taken in with the affairs of the undertaking of the company which is in good faith. done or intended to be done under this Ordinance.

V. V. GIRI, President.

N. D. P. NAMBOODIRIPAD, Joint Secy. to the Govt. of India.

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